

ENVIRONMENTAL PROTECTION COMMISSION[567]

Adopted and Filed

Rule making related to water quality

The Environmental Protection Commission hereby amends Chapter 64, “Wastewater Construction and Operation Permits,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 455B.103A, 455B.105(3) and 455B.173.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 455B.103A, 455B.105(3), 455B.173 and 455B.186.

Purpose and Summary

The amendments to Chapter 64 reissue National Pollutant Discharge Elimination System (NPDES) General Permits Nos. 1, 2 and 3, which authorize the discharge of storm water. General Permits Nos. 1, 2 and 3 were last reissued in 2012 for a five-year duration and expired October 1, 2017. These amendments renew all three permits, extending their coverage for another five years, to expire February 28, 2023. General permits for storm water discharges are required to be adopted by reference and are effective for no more than five years as specified in the Iowa Administrative Code.

No changes other than changes in dates and updates to Iowa Code and Iowa Administrative Code references are adopted for General Permit No. 1.

Several changes have been made for General Permit No. 2 (GP2). These changes include updates to federal effluent requirements for construction and development point sources set out in 40 CFR 450.21. One of the federal requirements is that areas of sites where construction activity will not occur for 14 or more days must have stabilization measures initiated immediately. The current requirement in GP2 is that areas of sites where construction activity will not occur for 21 or more days must have stabilization measures initiated on those areas no later than 14 days after no construction activity has occurred on them. The changes to GP2 will adopt the federal requirement regarding soil stabilization. Other than this soil stabilization requirement, all federal effluent requirements being added to GP2 are already found in various sections of the general permit though described using different verbiage. Other changes for GP2 are clarifications of existing requirements and updates to Iowa Code and Iowa Administrative Code reference changes.

The changes adopted for General Permit No. 3 are a clarification added at the request of stakeholders that explains an existing prohibition on the discharge of vehicle washwaters, changes in effective dates and updates to Iowa Code and Iowa Administrative Code references.

It is not the intent of the Commission that the textual changes in general permits be adopted in the Iowa Administrative Code but that these changes be made in the general permits themselves, which are adopted by reference into the Iowa Administrative Code.

Copies of the revised general permits are available upon request from the Department of Natural Resources (Department) at the address or telephone number below.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on September 13, 2017, as **ARC 3309C**. A public hearing was held on October 10, 2017. Comments received during the public hearing related to the vagueness of the required federal language. The comments and responses may be obtained by contacting the Department's Storm Water Coordinator, Joe Griffin, at joe.griffin@dnr.iowa.gov and at (515)725-8417, or on the Department's website: www.iowadnr.gov/Environmental-Protection/Water-Quality/NPDES-Storm-Water. Changes from the Notice were made to move the effective dates of the general permits back one month.

Adoption of Rule Making

This rule making was adopted by the Environmental Protection Commission on December 19, 2017.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, these amendments are expected to have minimal or no effect on jobs and employment opportunities. The requirements of the amendments can be achieved with minimal disruption in the operations that occur during development and construction. Moreover, these amendments are already required under federal law, and the state is required to adopt these standards for purposes of implementing the federal NPDES permit program. A copy of the Jobs Impact Statement is available upon request.

Waivers

Iowa Code section 455B.103A(1)“e” prohibits the issuance of variances for conditions of general permits. Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on March 1, 2018.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 64.15(1) as follows:

64.15(1) Storm Water Discharge Associated with Industrial Activity, NPDES General Permit No. 1, effective ~~October 1, 2012~~ March 1, 2018, to ~~October 1, 2017, as amended on March 26, 2014~~ February 28, 2023. Facilities assigned Standard Industrial Classification 1442, 2951, or 3273, and those facilities assigned Standard Industrial Classification 1422 or 1423 which are engaged primarily in rock crushing are not eligible for coverage under General Permit No. 1.

ITEM 2. Amend subrule 64.15(2) as follows:

64.15(2) Storm Water Discharge Associated with Industrial Activity for Construction Activities, NPDES General Permit No. 2, effective ~~October 1, 2012~~ March 1, 2018, to ~~October 1, 2017, as amended on August 12, 2015~~ February 28, 2023.

ITEM 3. Amend subrule 64.15(3) as follows:

64.15(3) Storm Water Discharge Associated with Industrial Activity from Asphalt Plants, Concrete Batch Plants, Rock Crushing Plants, and Construction Sand and Gravel Facilities, NPDES General Permit No. 3, effective ~~October 1, 2012~~ March 1, 2018, to ~~October 1, 2017, as amended on March 26, 2014~~ February 28, 2023. General Permit No. 3 authorizes storm water discharges from facilities primarily engaged in manufacturing asphalt paving mixtures and which are classified under Standard Industrial Classification 2951, primarily engaged in manufacturing Portland cement concrete and which are classified under Standard Industrial Classification 3273, those facilities assigned Standard Industrial Classification 1422 or 1423 which are primarily engaged in the crushing, grinding or pulverizing of limestone or granite, and construction sand and gravel facilities which are classified under Standard Industrial Classification 1442. General Permit No. 3 does not authorize the discharge of water resulting from dewatering activities at rock quarries.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/17/18.